

Virginia Administrative Code

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9VAC25-610-10. Definitions.

Unless a different meaning is required by the context, the following terms as used in this chapter shall have the following meanings:

"Act" means the Ground Water Management Act of 1992, Chapter 25 (§62.1-254 et seq.) of Title 62.1 of the Code of Virginia.

"Adverse impact" means reductions in ground water levels or changes in ground water quality that limit the ability of any existing ground water user lawfully withdrawing or authorized to withdraw ground water at the time of permit or special exception issuance to continue to withdraw the quantity and quality of ground water required by the existing use. Existing users include all those persons who have been granted a ground water withdrawal permit subject to this chapter and all other persons who are excluded from permit requirements by 9VAC25-610-50.

"Applicant" means a person filing an application to initiate or enlarge a ground water withdrawal in a ground water management area.

"Area of impact" means the areal extent of each aquifer where more than one foot of drawdown is predicted to occur due to a proposed withdrawal.

"Beneficial use" includes, but is not limited to domestic (including public water supply), agricultural, commercial, and industrial uses.

"Board" means the State Water Control Board.

"Consumptive use" means the withdrawal of ground water, without recycle of said waters to their source of origin.

"Department" means the Department of Environmental Quality.

"Draft permit" means a prepared document indicating the board's tentative decision relative to a permit action.

"Director" means the director of the Department of Environmental Quality.

"Geophysical investigation" means any hydrogeologic evaluation to define the hydrogeologic framework of an area or determine the hydrogeologic properties of any aquifer or confining unit to the extent that withdrawals associated with such investigations do not result in unmitigated adverse impacts to existing ground water users. Geophysical investigations include, but are not limited to, pump tests and aquifer tests.

"Ground water" means any water, except capillary moisture, beneath the land surface in the zone of saturation or beneath the bed of any stream, lake, reservoir or other body of surface water wholly or partially within the boundaries of this Commonwealth, whatever the subsurface geologic structure in which such water stands, flows, percolates or otherwise occurs.

"Historic prepumping water levels" means ground water levels in aquifers prior to the initiation of any ground water withdrawals. For the purpose of this chapter, in the Eastern Virginia and

Eastern Shore Ground Water Management Areas, historic prepumping water levels are defined as water levels present in aquifers prior to 1890.

"Human consumptive use" means the withdrawal of ground water for private residential domestic use and that portion of ground water withdrawals in a public water supply system that support residential domestic uses and domestic uses at commercial and industrial establishments.

"Mitigate" means to take actions necessary to assure that all existing ground water users at the time of issuance of a permit or special exception who experience adverse impacts continue to have access to the amount and quality of ground water needed for existing uses.

"Permit" means a ground water withdrawal permit issued by the board permitting the withdrawal of a specified quantity of ground water under specified conditions in a ground water management area.

"Permittee" means a person who currently has an effective ground water withdrawal permit issued by the board.

"Person" means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, or private or public corporations organized under the laws of this Commonwealth or any other state or country.

"Public hearing" means a fact finding proceeding held to afford interested persons an opportunity to submit factual data, views and comments to the board pursuant to the board's Procedural Rule No. 1.

"Salt water intrusion" means the encroachment of saline waters in any aquifer that create adverse impacts to existing ground water users or is counter to the public interest.

"Special exception" means a document issued by the board for withdrawal of ground water in unusual situations where requiring the user to obtain a ground water withdrawal permit would be contrary to the purpose of the Ground Water Management Act of 1992. Special exceptions allow the withdrawal of a specified quantity of ground water under specified conditions in a ground water management area.

"Surface and ground water conjunctive use system" means an integrated water supply system wherein surface water is the primary source and ground water is a supplemental source that is used to augment the surface water source when the surface water source is not able to produce the amount of water necessary to support the annual water demands of the system.

"Well" means any artificial opening or artificially altered natural opening, however made, by which ground water is sought or through which ground water flows under natural pressure or is intended to be withdrawn.

"Withdrawal system" means (i) one or more wells or withdrawal points located on the same or contiguous properties under common ownership for which the withdrawal is applied to the same beneficial use or (ii) two or more connected wells or withdrawal points which are under common ownership but are not necessarily located on contiguous properties.

Statutory Authority

§62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §1.1; eff. September 22, 1993.

Amended, Virginia Register Volume 15, Issue 5, eff. January 1, 1999.

Effect of Amendment

The January 1, 1999 amendment added the definitions for "well" and "withdrawal system".

9VAC25-610-20. Purpose.

The Groundwater Management Act of 1992 recognizes and declares that the right to reasonable control of all ground water resources within the Commonwealth belongs to the public and that in order to conserve, protect and beneficially utilize the ground water resource and to ensure the public welfare, safety and health, provisions for management and control of ground water resources are essential. This chapter delineates the procedures and requirements to be followed when establishing Groundwater Management Areas and the issuance of Groundwater Withdrawal Permits by the board pursuant to the Groundwater Management Act of 1992.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §1.2; eff. September 22, 1993.

9VAC25-610-30. [Repealed]

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §1.3; eff. September 22, 1993; repealed, Virginia Register Volume 15, Issue 5, eff. January 1, 1999.

Editor's Note

This section set forth the statutory authority for this chapter.

9VAC25-610-40. Prohibitions and requirements for ground water withdrawals.

A. No person shall withdraw, attempt to withdraw, or allow the withdrawal of ground water within a ground water management area, except as authorized pursuant to a ground water withdrawal permit, or as excluded in 9VAC25-610-50.

B. No permit or special exception shall be issued for more ground water than can be applied to the proposed beneficial use.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §1.4; eff. September 22, 1993.

9VAC25-610-50. Exclusions.

The following do not require a ground water withdrawal permit:

1. Withdrawals of less than 300,000 gallons per month;
2. Withdrawals associated with temporary construction dewatering that do not exceed 24 months in duration;
3. Withdrawals associated with a state-approved ground water remediation that do not exceed 60 months in duration;
4. Withdrawals for use by a ground water source heat pump where the discharge is reinjected into the aquifer from which it was withdrawn;
5. Withdrawals from ponds recharged by ground water without mechanical assistance;
6. Withdrawals for the purpose of conducting geophysical investigations, including pump tests;
7. Withdrawals coincident with exploration for and extraction of coal or activities associated with coal mining regulated by the Department of Mines, Minerals, and Energy;
8. Withdrawals coincident with the exploration for or production of oil, gas or other minerals other than coal, unless such withdrawal adversely impacts aquifer quantity or quality or other ground water users within a ground water management area;
9. Withdrawals in any area not declared to be a ground water management area;
10. Withdrawal of ground water authorized pursuant to a special exception issued by the board; and
11. Withdrawal of ground water discharged from free flowing springs where the natural flow of the spring has not been increased by any method.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §1.5; eff. September 22, 1993.

9VAC25-610-60. Effect of a permit.

A. Compliance with a ground water withdrawal permit constitutes compliance with the permit requirements of the Groundwater Management Act of 1992.

B. The issuance of a permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize injury to private property or any invasion of personal rights or any infringement of federal, state or local law or regulation.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §1.6; eff. September 22, 1993.

Part II

Declaration of Ground Water Management Areas

9VAC25-610-70. Criteria for consideration of a ground water management area.

The board upon its own motion, or in its discretion, upon receipt of a petition by any county, city or town within the area in question, may initiate a ground water management area proceeding, whenever in its judgment there is reason to believe that any one of the four following conditions exist:

1. Ground water levels in the area are declining or are expected to decline excessively;
2. The wells of two or more ground water users within the area are interfering or may be reasonably expected to interfere substantially with one another;
3. The available ground water supply has been or may be overdrawn; or
4. The ground water in the area has been or may become polluted.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §2.1; eff. September 22, 1993.

9VAC25-610-80. Declaration of ground water management areas.

A. If the board finds that any of the conditions listed in 9VAC25-610-70 exist, and further determines that the public welfare, safety and health require that regulatory efforts be initiated, the board shall declare the area in question a ground water management area, by regulation.

B. Such regulations shall be promulgated in accordance with the agency's Public Participation Guidelines (9VAC25-10-10 et seq.) and the Administrative Process Act (§9-6.14:1 et seq. of the Code of Virginia).

C. The regulation shall define the boundaries of the ground water management area, and identify the aquifers to be included in the ground water management area. Any number of aquifers that either wholly or partially overlies one another may be included within the same ground water management area.

D. After adoption the board shall mail a copy of the regulation to the mayor or chairman of the governing body of each county, city or town within which any part of the ground water management area lies.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §2.2; eff. September 22, 1993.

Part III

Permit Application and Issuance

9VAC25-610-90. Application for a permit.

A. Persons withdrawing ground water or who have rights to withdraw ground water prior to July 1, 1992, in the Eastern Virginia or Eastern Shore Ground Water Management Areas and not excluded from requirements of this chapter by 9VAC25-610-50 shall apply for a permit.

1. Any person who was issued a certificate of ground water right or a permit to withdraw ground water prior to July 1, 1991, and who was withdrawing ground water pursuant to said permit or certificate on July 1, 1992, shall file an application on or before December 31, 1992, to continue said withdrawal. The applicant shall demonstrate the claimed prior withdrawals through withdrawal reports required by the existing certificate or permit or by reports required by Water Withdrawal Reporting Regulations (9VAC25-200-10 et seq.).

2. Any person who was issued a certificate of ground water right or a permit to withdraw ground water prior to July 1, 1991, and who had not initiated the withdrawal prior to July 1, 1992, may initiate a withdrawal on or after July 1, 1992, pursuant to the terms and conditions of the certificate or permit and shall file an application for a ground water withdrawal permit on or before December 31, 1995, to continue said withdrawal. The applicant shall demonstrate the claimed prior withdrawals through withdrawal reports required by the existing certificate or permit or by reports required by Water Withdrawal Reporting Regulations (9VAC25-200-10 et seq.).

3. Any person who was issued a permit to withdraw ground water on or after July 1, 1991, and prior to July 1, 1992, shall not be required to apply for a ground water withdrawal permit until the expiration of the permit to withdraw ground water or 10 years from the date of issuance of the permit to withdraw ground water, whichever occurs first. Such persons shall reapply for a ground water withdrawal permit as described in subsection D of this section.

4. Any person withdrawing ground water for agricultural or livestock watering purposes on or before July 1, 1992, shall file an application for a ground water withdrawal permit on or before December 31, 1993. The applicant shall demonstrate the claimed prior withdrawals by voluntary withdrawal reports required by Water Withdrawal Reporting Regulations (9VAC25-200-10 et seq.) when such reports have been filed with the board. When such reports are not available, estimates of withdrawal will be accepted that are based on the area irrigated, depth of irrigation, and annual number of irrigations; pumping capacity and annual pumping time; annual energy consumption for pumps, energy consumption per hour, and pumping capacity; number and type of livestock watered annually; number and type of livestock where water is used for cooling purposes; or other methods approved by the board.

5. Any political subdivision, or authority serving a political subdivision, holding a certificate of ground water right or a permit to withdraw ground water issued prior to July 1, 1992, for the operation of a public water supply well for the purpose of providing supplemental water during drought conditions, shall file an application on or before December 31, 1992. Any political subdivision, or authority serving a political subdivision, shall submit, as part of the application, a water conservation and management plan as described in 9VAC25-610-100 B.

6. Any person who is required to apply in subdivision 1, 2, or 5 of this subsection and who uses the certificated or permitted withdrawal to operate a public water supply system shall provide a copy of the waterworks operation permit, or equivalent, with the required application for a ground water withdrawal permit.

7. Any person described in subdivision 1, 2, 3, or 5 of this subsection who files a complete application by the date required may continue to withdraw ground water pursuant to the existing certificate or permit until such time as the board takes action on the outstanding application for a ground water withdrawal permit.

8. Any person described in subdivision 4 of this subsection who files a complete application by the date required may continue his existing withdrawal until such time as the board takes action on the outstanding application for a ground water withdrawal permit.

9. Any person described in subdivision 1, 2, 3, 4, or 5 of this subsection who files an incomplete application by the date required may continue to withdraw ground water as described in subdivisions 7 and 8 of this subsection provided that all information required to complete the application is provided to the board within 60 days of the board's notice to the applicant of deficiencies. Should such person not provide the board the required information within 60 days, he shall cease withdrawals until he provides any additional information to the board and the board concurs that the application is complete.

10. A complete application for those persons described in subdivision 1, 2, 3, 4, or 5 of this subsection shall contain:

a. A ground water withdrawal permit application completed in its entirety. Application forms shall be submitted in a format specified by the board. Such application forms are available from the Department of Environmental Quality;

b. Well construction documentation for all wells associated with the application;

c. Locations of all wells associated with the application shown on United States Geological Survey 7¹/₂ minute topographic maps or copies of such maps;

d. Withdrawal reports required by the existing certificate or permit, reports required by Water Withdrawal Reporting Regulations (9VAC25-200-10 et seq.), or estimates of withdrawals as described in subdivision 4 of this subsection to support any claimed prior withdrawal; and

e. A copy of the Virginia Department of Health waterworks operation permit, or equivalent, where applicable.

f. Persons described in subdivision 5 of this subsection shall submit a water conservation and management plan as described in 9VAC25-610-100.

g. The application shall have an original signature as described in 9VAC25-610-150.

11. Any person described in subdivision 1, 2, 3, or 5 of this subsection who fails to file an application by the date required creates the presumption that all claims to ground water withdrawal based on historic use have been abandoned. Should any such person wish to rebut the presumption that claims to ground water withdrawal based on historic use have been abandoned, he shall have filed an application with a letter of explanation to the board by November 21, 1993. Any such person failing to rebut the presumption that claims to ground water withdrawal based on historic use have been abandoned who wishes to withdraw ground water shall apply for a new withdrawal as described in subsection C of this section.

12. Any person described in subdivision 4 of this subsection who fails to file an application by the date required creates the presumption that all claims to ground water withdrawal based on historic use have been abandoned. Should any such person wish to rebut the presumption that

claims to ground water withdrawal based on historic use have been abandoned, he may do so by filing an application with a letter of explanation to the board within 60 days of the original required date or within 60 days of January 1, 1999, whichever is later. Any such person failing to rebut the presumption that claims to ground water withdrawal based on historic use have been abandoned who wishes to withdraw ground water shall apply for a new withdrawal as described in subsection C of this section.

B. Persons withdrawing ground water when a ground water management area is declared or expanded after July 1, 1992, and not excluded from requirements of this chapter by 9VAC25-610-50 shall apply for a permit.

1. Any person withdrawing ground water in an area that is declared to be a ground water management area after July 1, 1992, shall file an application for a ground water within six months of the effective date of the regulation creating or expanding the ground water management area. The applicant shall demonstrate the claimed prior withdrawals through withdrawal reports required by Water Withdrawal Reporting Regulations (9VAC25-200-10 et seq.). In the case of agricultural ground water withdrawals not required to report by Water Withdrawal Reporting Regulations, estimates of withdrawal will be accepted that are based on the area irrigated, depth of irrigation, and annual number of irrigations; pumping capacity and annual pumping time; annual energy consumption for pumps, energy consumption per hour, and pumping capacity; number and type of livestock watered annually; number and type of livestock where water is used for cooling purposes; or other methods approved by the board.
2. Any person withdrawing ground water who uses the withdrawal to operate a public water supply system shall provide a copy of the waterworks operation permit, or equivalent, with the required application for a ground water withdrawal permit.
3. Any person who is required to apply for a ground water withdrawal permit and files a complete application within six months after the effective date of the regulation creating or expanding a ground water management area may continue their withdrawal until such time as the board takes action on the outstanding application for a ground water withdrawal permit.
4. Any person who is required to apply for a ground water withdrawal permit and files an incomplete application within six months after the effective date of the regulation creating or expanding a ground water management area may continue to withdraw ground water as described in subdivision 3 of this subsection provided that all the information required to complete the application is provided to the board within 60 days of the board's notice to the applicant of deficiencies. Should such person not provide the board the required information within 60 days, he shall cease withdrawals until he provides any additional information to the board and the board concurs that the application is complete.
5. A complete application for those persons described in subdivision 1 of this subsection shall contain:
 - a. A ground water withdrawal permit application completed in its entirety. Application forms shall be submitted in a format specified by the board. Such application forms are available from the Department of Environmental Quality;
 - b. Well construction documentation for all wells associated with the application;
 - c. Locations of all wells associated with the application shown on United States Geological Survey 7 $\frac{1}{2}$ minute topographic maps or copies of such maps;

d. Withdrawal reports required by Water Withdrawal Reporting Regulations (9VAC25-200-10 et seq.) or estimates of withdrawals as described in subdivision 1 of this subsection to support any claimed prior withdrawal;

e. A copy of the Virginia Department of Health waterworks operation permit, where applicable; and

f. The application shall have an original signature as described in 9VAC25-610-150.

6. Any person who fails to file an application within six months after the effective date creating or expanding a ground water management area creates the presumption that all claims to ground water withdrawal based on historic use have been abandoned. Should any such person wish to rebut the presumption that claims to ground water withdrawal based on historic use have been abandoned, they may do so by filing an application with a letter of explanation to the board within eight months after the date creating or expanding the ground water management area. Any such person failing to rebut the presumption that claims to ground water withdrawal based on historic use have been abandoned who wishes to withdraw ground water shall apply for a new withdrawal as described in subsection C of this section.

C. Persons wishing to initiate a new withdrawal or expand an existing withdrawal in any ground water management area and not excluded from requirements of this chapter by 9VAC25-610-50 shall apply for a permit.

1. A ground water withdrawal permit application shall be completed and submitted to the board and a ground water withdrawal permit issued by the board prior to the initiation of any withdrawal not specifically excluded in 9VAC25-610-50.

2. A complete ground water withdrawal permit application for a new or expanded withdrawal, at a minimum, shall contain the following:

a. A ground water withdrawal permit application completed in its entirety with all maps, attachments, and addenda that may be required;

b. The application shall include notification from the local governing body of the county, city or town in which the withdrawal is to occur that the location and operation of the withdrawing facility is in compliance with all ordinances adopted pursuant to Chapter 22 (§15.2-2200 et seq.) of Title 15.2 of the Code of Virginia. If the governing body of any county, city or town fails to respond within 45 days following receipt of a written request by certified mail, return receipt requested, by an applicant for certification that the location and operation of the proposed facility is consistent with all ordinances adopted pursuant to Chapter 22 (§15.2-2200 et seq.) of Title 15.2 of the Code of Virginia, the location and operation of the proposed facility shall be deemed to comply with the provisions of such ordinances for the purposes of this chapter;

c. The application shall have an original signature as described in 9VAC25-610-150;

d. The application shall include locations of all wells associated with the application shown on United States Geological Survey 7¹/₂ minute topographic maps or copies of such maps and a detailed location map of each existing and proposed well. The detailed location map shall be of sufficient detail such that all wells may be easily located for site inspection;

e. A completed well construction report for all existing wells associated with the application. Well construction report forms will be in a format specified by the board and are available from the Department of Environmental Quality;

- f. An evaluation of the lowest quality water needed for the intended beneficial use;
- g. An evaluation of sources of water supply, other than ground water, including sources of reclaimed water; and
- h. A water conservation and management plan as described in 9VAC25-610-100.

3. In addition to requirements contained in subdivision 2 of this subsection, the board may require any or all of the following information prior to considering an application complete.

- a. A plan to mitigate potential adverse impacts due to the proposed withdrawal on existing ground water users.
- b. The installation of monitoring wells and the collection and analysis of drill cuttings, continuous cores, geophysical logs, water quality samples or other hydrogeologic information necessary to characterize the aquifer system present at the proposed withdrawal site.
- c. The completion of pump tests or aquifer tests to determine aquifer characteristics at the proposed withdrawal site.
- d. Other information that the board believes is necessary to evaluate the application.

D. Duty to reapply.

1. Any permittee with an effective permit shall submit a new permit application at least 270 days before the expiration date of an effective permit unless permission for a later date has been granted by the board.

2. Permittees who have effective permits shall submit a new application 270 days prior to any proposed modification to their activity which will:

- a. Result in an increase of withdrawals above permitted limits; and
- b. Violate or lead to the violation of the terms and conditions of the permit.

3. The applicant shall provide all information described in subdivisions C 1 and 2 of this section and may be required to provide any information described in subdivision C 3 of this section for any reapplication.

E. Where the board considers an application incomplete under the requirements of this section, the board may require the submission of additional information after an application has been filed, and may suspend processing of any application until such time as the applicant has supplied missing or deficient information and the board considers the application complete. Further, where the applicant becomes aware that he omitted one or more relevant facts from a permit application, or submitted incorrect information in a permit application or in any report to the board, he shall immediately submit such facts or the correct information.

F. When an application does not accurately describe an existing or proposed ground water withdrawal system, the board may require the applicant to amend the existing application, submit a new application, or submit new applications before the application will be processed.

G. All persons required by this chapter to apply for ground water withdrawal permits shall submit application forms in a format specified by the board. Such application forms are available from the Department of Environmental Quality.

H. No ground water withdrawal permit application shall be considered complete until a permit

fee is submitted as required by regulations in Fees for Permits and Certificates (9VAC25-20-10 et seq.).

Statutory Authority

§62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §3.1; eff. September 22, 1993.

Amended, Virginia Register Volume 15, Issue 5, eff. January 1, 1999.

Effect of Amendment

The January 1, 1999 amendment added the text of paragraph A.4; added paragraph A.12; redesignated former paragraph A.10 as A.8 and renumbered subsequent paragraphs accordingly; added the final sentence of paragraph B.1; inserted "or expanded" in paragraph C.2; deleted requirements in former subparagraphs C.2.f and C.2.j for a well construction report for all proposed wells in the application and for evaluation for aquifer water level declines of at least one foot; and made grammatical and technical changes.

9VAC25-610-100. Water conservation and management plans.

A. Any application to initiate a new withdrawal or expand an existing withdrawal in any ground water management area or the reapplication at the end of a permit cycle for all permits shall require a water conservation and management plan before the application or reapplication is considered complete.

B. A water conservation and management plan shall include:

1. Requirements for the use of water saving plumbing and processes including, where appropriate, the use of water saving fixtures in new and renovated plumbing as provided in the Uniform Statewide Building Code;
2. A water loss reduction program;
3. A water use education program;
4. An evaluation of potential water reuse options; and
5. Requirements for mandatory water use reductions during water shortage emergencies declared by the local governing body or director including, where appropriate, ordinances prohibiting the waste of water generally and requirements providing for mandatory water use restrictions, with penalties, during water shortage emergencies.

C. The board shall review all water conservation and management plans and assure that such plans contain all elements required in 9VAC25-610-100 B. The board shall approve all plans that:

1. Contain requirements that water saving fixtures be used in all new and renovated plumbing as provided in the Uniform Statewide Building Code;
2. Contain requirements for making technological, procedural, or programmatic improvements to the applicant's facilities and processes to decrease water consumption. These requirements shall assure that the most efficient use is made of ground water;

3. Contain requirements for an audit of the total amount of ground water used in the applicant's distribution system and operational processes during the first two years of the permit cycle. Subsequent implementation of a leak detection and repair program will be required within one year of the completion of the audit, when such a program is technologically feasible;
4. Contain requirements for the education of water users and employees controlling water consuming processes to assure that water conservation principles are well known by the users of the resource;
5. Contain an evaluation of potential water reuse options and assurances that water will be reused in all instances where reuse is feasible;
6. Contain requirements for mandatory water use restrictions during water shortage emergencies that prohibit all nonessential uses such as lawn watering, car washing, and similar nonessential residential, industrial and commercial uses for the duration of the water shortage emergency; and
7. Contain penalties for failure to comply with mandatory water use restrictions.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §3.2; eff. September 22, 1993.

9VAC25-610-110. Criteria for issuance of permits.

- A. The board shall not issue any permit for more ground water than will be applied to the proposed beneficial use.
- B. The board shall issue ground water withdrawal permits to persons withdrawing ground water or who have rights to withdraw ground water prior to July 1, 1992, in the Eastern Virginia or Eastern Shore Ground Water Management Areas and not excluded from requirements of this chapter by 9VAC25-610-50 based on the following criteria:
 1. The board shall issue a ground water withdrawal permit for persons meeting the criteria of 9VAC25-610-90 A 1 for the total amount of ground water withdrawn in any consecutive 12-month period between July 1, 1987, and June 30, 1992; however, with respect to a political subdivision, an authority serving a political subdivision or a community waterworks regulated by the Department of Health, the board shall issue a ground water withdrawal permit for the total amount of water withdrawn in any consecutive 12-month period between July 1, 1980, and June 30, 1992.
 2. The board shall issue a ground water withdrawal permit for persons meeting the criteria of 9VAC25-610-90 A 2 for the total amount of ground water withdrawn and applied to a beneficial use in any consecutive 12-month period between July 1, 1992, and June 30, 1995.
 3. The board shall issue a ground water withdrawal permit for persons meeting the criteria of 9VAC25-610-90 A 4 for the total amount of ground water withdrawn in any consecutive 12-month period between July 1, 1983, and June 30, 1993. The board shall evaluate all estimates of ground water withdrawal based on projected water demands for crops and livestock as published by the Virginia Cooperative Extension Service, the United States Natural Resources Conservation Service, or other similar references and make a determination whether they are

reasonable. In all cases only reasonable estimates will be used to document a permit limit.

4. The board shall issue a ground water withdrawal permit for persons meeting the criteria of 9VAC25-610-90 A 5 for the amount of ground water withdrawal needed to annually meet human consumption needs as proven in the water conservation and management plan approved by the board. The board shall include conditions in such permits that require the implementation of mandatory use restrictions before such withdrawals can be exercised.

5. When requested by persons described in 9VAC25-610-90 A 1, 2 and 4, the board shall issue ground water withdrawal permits that include withdrawal amounts in excess of those which an applicant can support based on historic usage. These additional amounts shall be based on water savings achieved through water conservation measures. The applicant shall demonstrate withdrawals prior to implementation of water conservation measures, type of water conservation measure implemented, and withdrawals after implementation of water conservation measures. The applicant shall provide evidence of withdrawal amounts through metered withdrawals and estimated amounts shall not be accepted to claim additional withdrawal amounts due to water conservation. Decreases in withdrawal amounts due to production declines, climatic conditions, population declines, or similar events shall not be used as a basis to claim additional withdrawal amounts based on water conservation.

C. The board shall issue ground water withdrawal permits to persons withdrawing ground water when a ground water management area is declared or expanded after July 1, 1992, and not excluded from requirements of this chapter by 9VAC25-610-50 based on the following criteria:

1. The board shall issue a ground water withdrawal permit to nonagricultural users for the total amount of ground water withdrawn in any consecutive 12-month period during the five years preceding the effective date of the regulation creating or expanding the ground water management area.

2. The board shall issue a ground water withdrawal permit to agricultural users for the total amount of ground water withdrawn in any consecutive 12-month period during the 10 years preceding the effective date of the regulation creating or expanding the ground water management area. The board shall evaluate all estimates of ground water withdrawal based on projected water demands for crops and livestock as published by the Virginia Cooperative Extension Service, the United States Natural Resources Conservation Service, or other similar references and make a determination whether they are reasonable. In all cases only reasonable estimates will be used to document a permit limit.

3. When requested by the applicant the board shall issue ground water withdrawal permits that include withdrawal amounts in excess of those which an applicant can support based on historic usage. These additional amounts shall be based on water savings achieved through water conservation measures. The applicant shall demonstrate withdrawals prior to implementation of water conservation measures, type of water conservation measure implemented, and withdrawals after implementation of water conservation measures. The applicant shall provide evidence of withdrawal amounts through metered withdrawals and estimated amounts shall not be accepted to claim additional withdrawal amounts due to water conservation. Decreases in withdrawal amounts due to production declines, climatic conditions, population declines, or similar events shall not be used as a basis to claim additional withdrawal amounts based on water conservation.

D. The board shall issue ground water withdrawal permits to persons wishing to initiate a new

withdrawal or expand an existing withdrawal in any ground water management area who have submitted complete applications and are not excluded from requirements of this chapter by 9VAC25-610-50 based on the following criteria:

1. The applicant shall provide all information required in 9VAC25-610-90 C 2 prior to the board's determination that an application is complete. The board may require the applicant to provide any information contained in 9VAC25-610-90 C 3 prior to considering an application complete based on the anticipated impact of the proposed withdrawal on existing ground water users or the ground water resource.
2. The board shall perform a technical evaluation to determine the areas of any aquifers that will experience at least one foot of water level declines due to the proposed withdrawal and may evaluate the potential for the proposed withdrawal to cause salt water intrusion into any portions of any aquifers or the movement of waters of lower quality to areas where such movement would result in adverse impacts on existing ground water users or the ground water resource. Prior to public notice of a draft permit developed in accordance with the findings of the technical evaluation and at the request of the applicant, the results of the technical evaluation, including all assumptions and input, will be provided to the applicant for review.
3. The board shall issue a ground water withdrawal permit when it is demonstrated, by a complete application and the board's technical evaluation, to the board's satisfaction that the maximum safe supply of ground water will be preserved and protected for all other beneficial uses and that the applicant's proposed withdrawal will have no significant unmitigated impact on existing ground water users or the ground-water resource. In order to assure that the applicant's proposed withdrawal complies with the above stated requirements, the demonstration shall include, but not be limited to, compliance with the following criteria:
 - a. The applicant demonstrates that no other sources of water supply, including reclaimed water, are viable.
 - b. The applicant demonstrates that the ground water withdrawal will originate from the aquifer that contains the lowest quality water that will support the proposed beneficial use.
 - c. The applicant demonstrates that no pumps or water intake devices are placed below the top of the uppermost confined aquifer that a well utilizes as a ground water source or below the bottom of an unconfined aquifer that a well utilizes as a ground water source.
 - d. The applicant demonstrates that the amount of ground water withdrawal requested is the smallest amount of withdrawal necessary to support the proposed beneficial use and that the amount is representative of the amount necessary to support similar beneficial uses when adequate conservation measures are employed.
 - e. The applicant provides a water conservation and management plan as described in 9VAC25-610-100 and implements the plan as an enforceable condition of the ground water withdrawal permit.
 - f. The applicant provides certification by the local governing body that the location and operation of the withdrawing facility is in compliance with all ordinances adopted pursuant to Chapter 22 (§15.2-2200 et seq.) of Title 15.2 of the Code of Virginia.
 - g. The board's technical evaluation demonstrates that the area of impact of the proposed withdrawal will remain on property owned by the applicant or that there are no existing ground

water withdrawers within the area of impact of the proposed withdrawal.

In cases where the area of impact does not remain on the property owned by the applicant or existing ground water withdrawers will be included in the area of impact, the applicant shall provide and implement a plan to mitigate all adverse impacts on existing ground water users. Approvable mitigation plans shall, at a minimum, contain the following features and implementation of the mitigation plan shall be included as enforceable permit conditions:

- (1) The rebuttable presumption that water level declines that cause adverse impacts to existing wells within the area of impact are due to the proposed withdrawal;
- (2) A commitment by the applicant to mitigate undisputed adverse impacts due to the proposed withdrawal in a timely fashion;
- (3) A speedy, nonexclusive, low-cost process to fairly resolve disputed claims for mitigation between the applicant and any claimant; and
- (4) The requirement that the claimant provide documentation that he is the owner of the well; documentation that the well was constructed and operated prior to the initiation of the applicant's withdrawal; the depth of the well, the pump, and screens and any other construction information that the claimant possesses; the location of the well with enough specificity that it can be located in the field; the historic yield of the well, if available; historic water levels for the well, if available; and the reasons the claimant believes that the applicant's withdrawals have caused an adverse impact on the well.

h. The board's technical evaluation demonstrates that the proposed withdrawal in combination with all existing lawful withdrawals will not lower water levels, in any confined aquifer that the withdrawal impacts, below a point that represents 80% of the distance between the historical prepumping water levels in the aquifer and the top of the aquifer. Compliance with the 80% drawdown criterion will be determined at the points that are halfway between the proposed withdrawal site and the predicted one-foot drawdown contour based on the predicted stabilized effects of the proposed withdrawal.

i. The board's technical evaluation demonstrates that the proposed ground water withdrawal will not result in salt water intrusion or the movement of waters of lower quality to areas where such movement would result in adverse impacts on existing ground water users or the ground water resource. This provision shall not exclude the withdrawal of brackish water so long as the proposed withdrawal will not result in unmitigated adverse impacts.

4. The board may also take the following factors into consideration when evaluating a ground water withdrawal permit application or special conditions associated with a ground water withdrawal permit:

- a. The nature of the use of the proposed withdrawal;
- b. The proposed use of innovative approaches such as aquifer storage and recovery systems, surface and ground water conjunctive use systems, multiple well systems that blend withdrawals from aquifers that contain different quality ground water in order to produce potable water, and desalinization of brackish ground water;
- c. Climatic cycles;
- d. Economic cycles;

- e. The unique requirements of nuclear power stations;
 - f. Population and water demand projections during the term of the proposed permit;
 - g. The status of land use and other necessary approvals; and
 - h. Other factors that the board deems appropriate.
- E. When proposed uses of ground water are in conflict or available supplies of ground water are not sufficient to support all those who desire to use them, the board shall prioritize the evaluation of applications in the following manner:
1. Applications for human consumptive use shall be given the highest priority;
 2. Should there be conflicts between applications for human consumptive uses, applications will be evaluated in order based on the date that said applications were considered complete; and
 3. Applications for all uses, other than human consumption, will be evaluated following the evaluation of proposed human consumptive uses in order based on the date that said applications were considered complete.
- F. Criteria for reissuance of permits. The board shall consider all criteria for reissuance of a ground water withdrawal permit described in subsection D of this section. Existing permitted withdrawal amounts shall not be the sole basis for determination of the appropriate withdrawal amounts when a permit is reissued.

The board shall reissue a permit to any public water supply user for an annual amount no less than the amount equal to that portion of the permitted withdrawal that was used by said system to support human consumptive uses during 12 consecutive months of the previous term of the permit.

Statutory Authority

§62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §3.3; eff. September 22, 1993.

Amended, Virginia Register Volume 15, Issue 5, eff. January 1, 1999.

Effect of Amendment

The January 1, 1999 amendment substantially revised this section.

9VAC25-610-120. Public water supplies.

The board shall evaluate all applications for ground water withdrawals for public water supplies as described in 9VAC25-610-110. The board shall make a preliminary decision on the application and prepare a draft ground water withdrawal permit and forward the draft permit to the Virginia Department of Health. The board shall not issue a final ground water withdrawal permit until such time as the Virginia Department of Health issues a waterworks operation permit, or equivalent. The board shall establish withdrawal limits for such permits as described in 9VAC25-610-140 A 3 and 4. Under the Virginia Department of Health's Waterworks Regulation any proposed use of reclaimed, reused, or recycled water contained in a ground water withdrawal application to support a public water supply is required to be approved by the

Virginia Department of Health.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §3.4; eff. September 22, 1993.

9VAC25-610-130. Conditions applicable to all permits.

A. Duty to comply. The permittee shall comply with all conditions of the permit. Nothing in this chapter shall be construed to relieve the ground water withdrawal permit holder of the duty to comply with all applicable federal and state statutes and regulations. At a minimum, a person must obtain a well construction permit or a well site approval letter from the Virginia Department of Health prior to the construction of any well. Any permit noncompliance is a violation of the Act and law, and is grounds for enforcement action, permit termination, revocation, amendment, or denial of a permit renewal application.

B. Duty to cease or confine activity. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a permit has been granted in order to maintain compliance with the conditions of the permit.

C. Duty to mitigate. The permittee shall take all reasonable steps to:

1. Avoid all adverse impacts to lawful ground water users which could result from the withdrawal; and
2. Where impacts cannot be avoided, provide mitigation of the adverse impact as described in 9VAC25-610-110 D 3 g.

D. Inspection and entry. Upon presentation of credentials, any duly authorized agent of the board or department may, at reasonable times and under reasonable circumstances:

1. Enter upon any permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the permit conditions;
2. Inspect any facilities, operations or practices (including monitoring and control equipment) regulated or required under the permit; and
3. Sample or monitor any substance, parameter or activity for the purpose of assuring compliance with the conditions of the permit or as otherwise authorized by law.

E. Duty to provide information. The permittee shall furnish to the board, within a reasonable time, any information which the board may request to determine whether cause exists for amending or revoking the permit, or to determine compliance with the permit. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee.

F. Monitoring and records requirements.

1. Monitoring shall be conducted according to approved analytical methods as specified in the permit.
2. Samples and measurements taken for the purpose of monitoring shall be representative of the

monitored activity.

3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete the application for the permit, for a period of at least three years from the date of the expiration of a granted permit. This period may be extended by request of the board at any time.

4. Records of monitoring information shall include:

- a. The date, exact place and time of sampling or measurements;
- b. The name of the individuals who performed the sampling or measurements;
- c. The date the analyses were performed;
- d. The name of the individuals who performed the analyses;
- e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used; and
- f. The results of such analyses.

G. Permit action. A permit may be amended or revoked as set forth in Part VI of this chapter.

If a permittee files a request for permit amendment or revocation, or files a notification of planned changes, or anticipated noncompliance, the permit terms and conditions shall remain effective until the request is acted upon by the board. This provision shall not be used to extend the expiration date of the effective permit.

Permits may be amended or revoked upon the request of the permittee, or upon board initiative, to reflect the requirements of any changes in the statutes or regulations.

Statutory Authority

§62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §3.5; eff. September 22, 1993.

Amended, Virginia Register Volume 15, Issue 5, eff. January 1, 1999.

Effect of Amendment

The January 1, 1999 amendment changed internal cross references in paragraph C.2.

9VAC25-610-140. Establishing applicable standards, limitations or other permit conditions.

A. In addition to the conditions established in 9VAC25-610-100, 9VAC25-610-110, 9VAC25-610-120 and 9VAC25-610-130, each permit shall include conditions with the following requirements:

1. A permit shall contain the total depth of each permitted well in feet;
2. A permit shall contain the designation of the aquifers to be utilized;

3. A permit shall contain conditions limiting the withdrawal amount of a single well or a group of wells that comprise a withdrawal system to a quantity specified by the board. A permit shall contain a maximum annual withdrawal limit;
4. A ground water withdrawal permit for a public water supply shall contain a condition allowing daily withdrawals at a level consistent with the requirements and conditions contained in the waterworks operation permit, or equivalent, issued by the Virginia Department of Health. This requirement shall not limit the authority of the board to reduce or eliminate ground water withdrawals by public water suppliers if necessary to protect human health or the environment;
5. The permittee shall not place a pump or water intake device lower than the top of the uppermost confined aquifer that a well utilizes as a ground water source or lower than the bottom of an unconfined aquifer that a well utilizes as a ground water source;
6. All permits shall specify monitoring requirements as conditions of the permit.
 - a. Permitted users who are issued ground water withdrawal permits based on 9VAC25-610-110 B 3 and C 2 shall install either in-line totalizing flow meters or hour meters that record the hours of operation of withdrawal pumps on each permitted well prior to beginning the permitted use. Flow meters shall produce volume determinations within plus or minus 10% of actual flows. Hour meters shall produce run times within plus or minus 10% of actual run times. Hour meter readings will be multiplied by the maximum capacity of the withdrawal pump to determine withdrawal amounts. A defective meter or other device must be repaired or replaced within 30 days. A defective meter is not grounds for not reporting withdrawals. During any period when a meter is defective, generally accepted engineering methods shall be used to estimate withdrawals and the period during which the meter was defective must be clearly identified in ground water withdrawal reports. An alternative method for determining flow may be approved by the board on a case-by-case basis.
 - b. Permitted users who are issued ground water withdrawal permits based on any section of this chapter not included in subdivision 6 a of this subsection shall install in-line totalizing flow meters to read gallons, cubic feet or cubic meters on each permitted well prior to beginning the permitted use. Such meters shall produce volume determinations within plus or minus 10% of actual flows. A defective meter or other device must be repaired or replaced within 30 days. A defective meter is not grounds for not reporting withdrawals. During any period when a meter is defective, generally accepted engineering methods shall be used to estimate withdrawals and the period during which the meter was defective must be clearly identified in ground water withdrawal reports. An alternative method for determining flow may be approved by the board on a case-by-case basis.
 - c. Permits shall contain requirements concerning the proper use, maintenance and installation, when appropriate, of monitoring equipment or methods when required as a condition of the permit.
 - d. Permits shall contain required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity and including, when appropriate, continuous monitoring and sampling.
 - e. Each permitted well shall be equipped in a manner such that water levels can be measured during pumping and nonpumping periods without dismantling any equipment. Any opening for tape measurement of water levels shall have an inside diameter of at least 0.5 inches and be

sealed by a removable plug or cap. The permittee shall provide a tap for taking raw water samples from each permitted well.

7. All permits shall include requirements to report the amount of water withdrawn from each permitted well and well system on forms provided by the board with a frequency dependent on the nature and effect of the withdrawal, but in no case less than once per year.

8. Ground water withdrawal permits issued under this chapter shall have an effective and expiration date which will determine the life of the permit. Ground water withdrawal permits shall be effective for a fixed term not to exceed 10 years. Permit duration of less than the maximum period of time may be recommended in areas where hydrologic conditions are changing or are not adequately known. The term of any permit shall not be extended by amendment beyond the maximum duration. Extension of permits for the same activity beyond the maximum duration specified in the original permit will require reapplication and issuance of a new permit.

9. Each permit shall have a condition allowing the reopening of the permit for the purpose of amending the conditions of the permit to meet new regulatory standards duly adopted by the board. Cause for reopening permits include but is not limited to a determination that the circumstances under which the previous permit was based have materially and substantially changed, or special studies conducted by the board or the permittee show material and substantial change, since the time the permit was issued and thereby constitute cause for permit amendment or revocation.

10. Each well that is included in a ground water withdrawal permit shall have affixed to the well casing, in a prominent place, a permanent well identification plate that records the Department of Environmental Quality well identification number, the ground water withdrawal permit number, the total depth of the well and the screened intervals in the well, at a minimum. Such well identification plates shall be in a format specified by the board and are available from the Department of Environmental Quality.

B. In addition to the conditions established in 9VAC25-610-100, 9VAC25-610-110, 9VAC25-610-120, 9VAC25-610-130, and subsection A of this section, each permit may include conditions with the following requirements where applicable:

1. A withdrawal limit may be placed on all or some of the wells which constitute a withdrawal system;

2. A permit may contain quarterly, monthly, or daily withdrawal limits or withdrawal limits based on any other frequency as determined by the board;

3. A permit may contain conditions requiring water quality and water levels monitoring at specified intervals in any wells deemed appropriate by the board;

4. A permit may contain conditions specifying water quality action levels in pumping and observation/monitoring wells to protect against or mitigate water quality degradation. The board may require permitted users to initiate control measures which include, but are not limited to, the following:

a. Pumping arrangements to reduce ground water withdrawal in areas of concentrated pumping;

b. Location of wells to eliminate or reduce ground water withdrawals near saltwater-freshwater interfaces;

- c. Requirement of selective withdrawal from other available aquifers than those presently used;
 - d. Selective curtailment, reduction or cessation of ground water withdrawals to protect the public welfare, safety or health or to protect the resource;
 - e. Conjunctive use of freshwater and saltwater aquifers, or waters of less desirable quality where water quality of a specific character is not essential;
 - f. Construction and use of observation or monitoring wells, drilled into aquifers between areas of ground water withdrawal (or proposed areas of ground water withdrawal) and sources of lower quality water including saltwater;
 - g. Prohibiting the hydraulic connection of aquifers that contain different quality waters that could result in deterioration of water quality in an aquifer; and
 - h. Such other necessary control or abatement techniques as are technically feasible.
5. A permit may contain conditions limiting water level declines in pumping wells and observation wells; and
6. All permits may include requirements to report water quality and water level information on forms provided by the board with a frequency dependent on the nature and effect of the withdrawal, but in no case less than once per year.
- C. In addition to conditions described in 9VAC25-610-130 and subsections A and B of this section, the board may issue any permit with any terms, conditions and limitations necessary to protect the public welfare, safety and health.

Statutory Authority

§62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §3.6; eff. September 22, 1993.

Amended, Virginia Register Volume 15, Issue 5, eff. January 1, 1999.

Effect of Amendment

The January 1, 1999 amendment added new paragraph 6.a and redesignated subsequent paragraphs accordingly, inserted "who are issued ground water withdrawal permits based on any section of this chapter not included in subdivision 6 a of this subsection" in the first sentence of newly designated paragraph 6.b, inserted "at least" in the second sentence of newly designated paragraph 6.e, and made technical changes.

9VAC25-610-150. Signatory requirements.

Any application, report, or certification shall be signed as follows:

1. Application.

a. For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having

gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. For a municipality, state, federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency).

c. For a partnership or sole proprietorship, by a general partner or proprietor respectively.

d. Any application for a permit under this regulation must bear the signatures of the responsible party and any agent acting on the responsible party's behalf.

2. Reports. All reports required by permits and other information requested by the board shall be signed by:

a. One of the persons described in subdivision 1 a, b or c of this section; or

b. A duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing to the board by a person described in subdivision 1 a, b, or c of this section; and

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated withdrawal facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position.

(3) If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the board prior to or together with any separate information, or applications to be signed by an authorized representative.

3. Certification of application and reports. Any person signing a document under subdivision 1 or 2 of this section shall make the following certification: I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §3.7; eff. September 22, 1993.

9VAC25-610-160. Draft permit.

A. Upon receipt of a complete application for a new or expanded withdrawal or a complete application to amend an existing withdrawal, the board shall make a tentative decision to issue or deny the application. If a tentative decision is to issue the permit then a draft permit shall be prepared in advance of public notice. The following tentative determinations shall be incorporated into a draft permit:

1. Conditions, withdrawal limitations, standards and other requirements applicable to the permit;
2. Monitoring and reporting requirements;
3. Requirements for mitigation of adverse impacts; and
4. Requirements for a water conservation and management plan.

B. If the tentative decision is to deny the application, the board shall do so in accordance with 9VAC25-610-340.

Statutory Authority

§62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §3.8; eff. September 22, 1993.

Amended, Virginia Register Volume 15, Issue 5, eff. January 1, 1999.

Effect of Amendment

The January 1, 1999 amendment inserted "for a new or expanded withdrawal or a complete application to amend an existing withdrawal" in the first sentence of subsection A.

Part IV

Special Exception Application and Issuance

9VAC25-610-170. Application for a special exception.

A. Any person who wishes to initiate a ground water withdrawal in any ground water management area and is not exempted from the provisions of this chapter by 9VAC25-610-50 may apply for a special exception in unusual cases where requiring the proposed user to obtain a ground water withdrawal permit would be contrary to the purpose of the Groundwater Management Act of 1992.

B. A special exception application shall be completed and submitted to the board and a special exception issued by the board prior to the initiation of any withdrawal not specifically excluded in 9VAC25-610-50 of this chapter. Special exception application forms shall be in a format specified by the board and are available from the Department of Environmental Quality.

C. Due to the unique nature of applications for special exceptions the board shall determine the completeness of an application on a case-by-case basis. The board may require any information required in 9VAC25-610-90 C 2 or 3 prior to considering an application for a special exception complete.

D. Where the board considers an application incomplete, the board may require the submission of additional information after an application has been filed, and may suspend processing of any

application until such time as the applicant has supplied missing or deficient information and the board considers the application complete. Further, where the applicant becomes aware that he omitted one or more relevant facts from a special exception application, or submitted incorrect information in a special exception application or in any report to the board, he shall immediately submit such facts or the correct information.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §4.1; eff. September 22, 1993.

9VAC25-610-180. Water conservation and management plans.

A. The board may require water conservation and management plans or specific elements of water conservation and management plans as described in 9VAC25-610-100 B prior to considering an application for special exception complete.

B. In instances where a water conservation and management plan is required, the board may include the implementation of such plans as an enforceable condition of the applicable special exception.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §4.2; eff. September 22, 1993.

9VAC25-610-190. Criteria for the issuance of special exceptions.

A. The board shall issue special exceptions only in unusual situations where the applicant demonstrates to the board's satisfaction that requiring the applicant to obtain a ground water withdrawal permit would be contrary to the intended purposes of the Groundwater Management Act of 1992.

B. The board may require compliance with any criteria described in 9VAC25-610-110.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §4.3; eff. September 22, 1993.

9VAC25-610-200. Public water supplies.

The board shall not issue special exceptions for the normal operations of public water supplies.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §4.4; eff. September 22, 1993.

9VAC25-610-210. Conditions applicable to all special exceptions.

The holder of any special exception shall be responsible for compliance with all conditions contained in the special exception and shall be subject to the same requirements of permittees as described in 9VAC25-610-130.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §4.5; eff. September 22, 1993.

9VAC25-610-220. Establishing applicable standards, limitations or other special exception conditions.

The board may issue special exceptions which include any requirement for permits as described in 9VAC25-610-140. Special exceptions shall not be renewed, except in the case of special exceptions that have been issued to allow ground water withdrawals associated with state-approved ground water remediation activities. In the case of reissuance of a special exception for a state-approved ground water remediation activity, the board may require the holder of the special exception to submit any information required in 9VAC25-610-90 C 2 or 3 and may require compliance with any criteria described in 9VAC25-610-110. In the case where any other activity that is being supported by the specially excepted withdrawal will require that the withdrawal extend beyond the term of the existing special exception, the ground water user shall apply for a permit to withdraw ground water.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §4.6; eff. September 22, 1993.

9VAC25-610-230. Signatory requirements.

The signatory requirements for any application, report or certification shall be the same as those described in 9VAC25-610-150.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §4.7; eff. September 22, 1993.

9VAC25-610-240. Draft special exception.

A. Upon receipt of a complete application, the board shall make a tentative decision to issue or deny the application. If a tentative decision is to issue the special exception then a draft special exception shall be prepared in advance of public notice. The following tentative determinations

shall be incorporated into a draft special exception:

1. Conditions, withdrawal limitations, standards and other requirements applicable to the special exception;
2. Monitoring and reporting requirements; and
3. Requirements for mitigation of adverse impacts.

B. If the tentative decision is to deny the application, the board shall return the application to the applicant. The applicant may then apply for a ground water withdrawal permit for the proposed withdrawal in accordance with Part III of this chapter.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §4.8; eff. September 22, 1993.

Part V

Public Involvement

9VAC25-610-250. Public notice of permit or special exception action and public comment period.

A. Every draft permit described in 9VAC25-610-160 A and draft special exception shall be given public notice in a form prescribed by the board and paid for by the owner, by publication once in a newspaper of general circulation in the area affected by the withdrawal.

B. Notice of each draft permit described in 9VAC25-610-160 A and draft special exception will be mailed by the board to each local governing body within the ground water management area within which the proposed withdrawal will occur on or before the date of public notice.

C. The board shall allow a period of at least 30 days following the date of the public notice for interested persons to submit written comments on the tentative decision and to request an informal hearing.

D. The contents of the public notice of a draft permit or draft special exception action shall include:

1. Name and address of the applicant. If the location of the proposed withdrawal differs from the address of the applicant the notice shall also state the location in sufficient detail such that the specific location may be easily identified;
2. Brief description of the beneficial use that the ground water withdrawal will support;
3. The name and depth below ground surface of the aquifer that will support the proposed withdrawal;
4. The amount of ground water withdrawal requested expressed as an average gallonage per day;
5. A statement of the tentative determination to issue or deny a permit or special exception;
6. A brief description of the final determination procedure;

7. The address and phone number of a specific person at the department's office from whom further information may be obtained; and

8. A brief description on how to submit comments and request a public hearing.

E. Public notice shall not be required for submission or approval of plans and specifications or conceptual engineering reports not required to be submitted as part of the application or for draft permits for existing ground water withdrawals when such draft permits are based solely on historic withdrawals.

F. When a permit or special exception is denied the board will do so in accordance with 9VAC25-610-340.

Statutory Authority

§62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §5.1; eff. September 22, 1993.

Amended, Virginia Register Volume 15, Issue 5, eff. January 1, 1999.

Effect of Amendment

The January 1, 1999 amendment changed "draft permit and" to "draft permit described in 9VAC25-610-160 A and draft" in subsections A and B, and added "or for draft permits for existing ground water withdrawals when such draft permits are based solely on historic withdrawals" in subsection E.

9VAC25-610-260. Public access to information.

All information pertaining to permit and special exception application and processing shall be available to the public.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §5.2; eff. September 22, 1993.

9VAC25-610-270. Public comments and public hearing.

A. All written comments submitted during the 30-day comment period described in 9VAC25-610-250 C shall be retained by the board and considered during the board's final decision on the permit or special exception.

B. The director shall consider all written comments and requests for an informal hearing received during the comment period, and shall make a determination on the necessity of an informal hearing in accordance with 9VAC25-230-50. All proceedings, informal hearings and decisions from them will be in accordance with Procedural Rule No. 1.

C. Should the director, in accordance with Procedural Rule No. 1, determine to dispense with the informal hearing, he may grant the permit or special exception, or, at his discretion, transmit the application or request, together with all written comments thereon and relevant staff documents

and staff recommendations, if any, to the board for its decision.

D. Any owner aggrieved by any action of the board taken without a formal hearing may request in writing a formal hearing pursuant to Procedural Rule No. 1.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §5.3; eff. September 22, 1993.

9VAC25-610-280. Public notice of hearing.

A. Public notice of any informal hearing held pursuant to 9VAC25-610-270 shall be circulated as follows:

1. Notice shall be published once in a newspaper of general circulation in the area affected by the proposed withdrawal; and
2. Notice of the informal hearing shall be sent to all persons and government agencies which received a copy of the public notice of the draft permit or special exception and to those persons requesting an informal hearing or having commented in response to the public notice.

B. Notice shall be effected pursuant to subdivisions A 1 and A 2 of this section, upon mailing, at least 30 days in advance of the informal hearing.

C. The content of the public notice of any informal hearing held pursuant to 9VAC25-610-270 shall include at least the following:

1. Name and address of each person whose application will be considered at the informal hearing, the amount of ground water withdrawal requested expressed as an average gallonage per day, and a brief description of the beneficial use that will be supported by the proposed ground water withdrawal.
2. The precise location of the proposed withdrawal and the aquifers that will support the withdrawal. The location should be described, where possible, with reference to route numbers, road intersections, map coordinates or similar information.
3. A brief reference to the public notice issued for the permit or special exception application and draft permit or special exception, including identification number and date of issuance unless the public notice includes the informal hearing notice.
4. Information regarding the time and location for the informal hearing.
5. The purpose of the informal hearing.
6. A concise statement of the relevant issues raised by the persons requesting the informal hearing.
7. Contact person and the address of the Department of Environmental Quality office at which interested persons may obtain further information or request a copy of the draft permit or special exception.
8. A brief reference to the rules and procedures to be followed at the informal hearing.

D. Public notice of any formal hearing held pursuant to 9VAC25-610-270 D shall be in accordance with Procedural Rule No.1.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §5.4; eff. September 22, 1993.

Part VI

Permit and Special Exception Amendment, Revocation and Denial

9VAC25-610-290. Rules for amendment and revocation.

Permits and special exceptions shall be amended or revoked only as authorized by this part of this chapter as follows:

1. A permit or special exception may be amended in whole or in part, or revoked;
2. Permit or special exception amendments shall not be used to extend the term of a permit or special exception; and
3. Amendment or revocation may be initiated by the board, on the request of the permittee, or other person at the board's discretion under applicable laws or the provisions of this chapter.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §6.1; eff. September 22, 1993.

9VAC25-610-300. Causes for revocation.

A. After public notice and opportunity for a formal hearing pursuant to 9VAC25-230-100 a permit or special exception can be revoked for cause. Causes for revocation are as follows:

1. Noncompliance with any condition of the permit or special exception;
2. Failure to fully disclose all relevant facts or misrepresentation of a material fact in applying for a permit or special exception, or in any other report or document required by the Act, this chapter or permit or special exception conditions;
3. The violation of any regulation or order of the board, or any order of a court, pertaining to ground water withdrawal;
4. A determination that the withdrawal authorized by the permit or special exception endangers human health or the environment and can not be regulated to acceptable levels by permit or special exception amendment;
5. A material change in the basis on which the permit or special exception was issued that requires either a temporary or permanent reduction, application of special conditions or elimination of any ground water withdrawal controlled by the permit or special exception.

B. After public notice and opportunity for a formal hearing pursuant to 9VAC25-230-100 a permit or special exception can be revoked when any of the developments described in 9VAC25-610-310 occur and the holder of the permit or special exception agrees to or requests the revocation.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §6.2; eff. September 22, 1993.

9VAC25-610-310. Causes for amendment.

A. A permit or special exception may, at the board's discretion, be amended for any cause as described in 9VAC25-610-300.

B. A permit or special exception may be amended when any of the following developments occur:

1. When new information becomes available about the ground water withdrawal covered by the permit or special exception, or the impact of the withdrawal, which was not available at permit or special exception issuance and would have justified the application of different conditions at the time of issuance;
2. When ground water withdrawal reports submitted by the permittee indicate that the permittee is using less than 60% of the permitted withdrawal amount for a five-year period;
3. When a change is made in the regulations on which the permit or special exception was based; or
4. When changes occur which are subject to "reopener clauses" in the permit or special exception.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §6.3; eff. September 22, 1993.

9VAC25-610-320. Transferability of permits and special exceptions.

A. Transfer by amendment. Except as provided for under automatic transfer in subsection B of this section, a permit or special exception shall be transferred only if the permit has been amended to reflect the transfer.

B. Automatic transfer. Any permit or special exception shall be automatically transferred to a new owner if:

1. The current owner notifies the board 30 days in advance of the proposed transfer of ownership;
2. The notice to the board includes a written agreement between the existing and proposed new owner containing a specific date of transfer of permit or special exception responsibility,

coverage and liability between them; and

3. The board does not within the 30-day time period notify the existing owner and the proposed owner of its intent to amend the permit or special exception.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §6.4; eff. September 22, 1993.

9VAC25-610-330. Minor amendment.

A. Upon request of the holder of a permit or special exception, or upon board initiative with the consent of the holder of a permit or special exception, minor amendments may be made in the permit or special exception without following the public involvement procedures.

B. For ground water withdrawal permits and special exceptions, minor amendments may only:

1. Correct typographical errors;
2. Require reporting at a greater frequency than required in the permit or special exception;
3. Add additional or more restrictive monitoring requirements than required in the permit or special exception;
4. Replace an existing well so long as the replacement well is screened in the same aquifers as the existing well, the replacement well is in the same location as the existing well, the ground water withdrawal does not increase, and the area of impact does not increase;
5. Add additional wells so long as the additional wells are screened in the same aquifers as the existing well, additional wells are in the same location as the existing well, the total ground water withdrawal does not increase, and the area of impact does not increase;
6. Combine the withdrawals governed by multiple permits into one permit when the systems that were governed by the multiple permits are physically connected, as long as the interconnection will not result in additional ground water withdrawal and the area of impact will not increase;
7. Change an interim compliance date in a schedule of compliance to no more than 120 days from the original compliance date and provided it will not interfere with the final compliance date; and
8. Allow for a change in ownership or operational control when the board determines that no other change in the permit or special exception is necessary, provided that a written agreement containing a specific date for transfer of permit or special exception responsibility, coverage and liability from the current to the new owner has been submitted to the board.

Statutory Authority

§62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §6.5; eff. September 22, 1993.

Amended, Virginia Register Volume 15, Issue 5, eff. January 1, 1999.

Effect of Amendment

The January 1, 1999 amendment changed "same aquifers and in the same location as the existing well" to "same aquifers as the existing well, the replacement well is in the same location as the existing well, the ground water withdrawal does not increase, and the area of impact does not increase" in paragraph B.4, and added new paragraph B.5 and redesignated the subsequent paragraphs accordingly.

9VAC25-610-340. Denial of a permit or special exception.

- A. The applicant shall be notified by letter of the department's decision to recommend to the board denial of the permit or special exception requested.
- B. The department shall provide sufficient information to the applicant regarding the rationale for denial, such that the applicant may, at his option, modify the application in order to achieve a favorable recommendation; withdraw his application; or proceed with the processing on the original application.
- C. Should the applicant withdraw his application, no permit or special exception will be issued.
- D. Should the applicant elect to proceed with the original project, the staff shall make its recommendation of denial to the director for determination of the need for public notice as provided for in Part V of this chapter.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §6.6; eff. September 22, 1993.

Part VII

Enforcement

9VAC25-610-350. Enforcement.

The board may enforce the provisions of this chapter utilizing all applicable procedures under the Groundwater Management Act of 1992 or any other section of the Code of Virginia that may be applicable.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §7.1; eff. September 22, 1993.

Part VIII

Miscellaneous

9VAC25-610-360. Delegation of authority.

The director, or his designee, may perform any act of the board provided under this chapter,

except as limited by §62.1-256.9 of the Code of Virginia.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §8.1; eff. September 22, 1993.

9VAC25-610-370. Control of naturally flowing wells.

The owner of any well that naturally flows, in any portion of the Commonwealth, shall either:

1. Permanently abandon the well in accordance with the Virginia Department of Health's Private Well Construction Regulations; or
2. Equip the well with valves that will completely stop the flow of ground water when it is not being applied to a beneficial use.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §8.2; eff. September 22, 1993.

9VAC25-610-380. Statewide information requirements.

The board may require any person withdrawing ground water for any purpose anywhere in the Commonwealth, whether or not declared to be a ground water management area, to furnish to the board such information that may be necessary to carry out the provisions of the Groundwater Management Act of 1992. Ground water withdrawals that occur in conjunction with activities related to the exploration and production of oil, gas, coal, or other minerals regulated by the Department of Mines, Minerals and Energy are exempt from any information reporting requirements.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §8.3; eff. September 22, 1993.

9VAC25-610-390. Statewide right to inspection and entry.

Upon presentation of credentials the board, or any duly authorized agent, shall have the power to enter, at reasonable times and under reasonable circumstances, any establishment or upon any property, public or private, located anywhere in the Commonwealth for the purposes of obtaining information, conducting surveys or inspections, or inspecting wells and springs to ensure compliance with any permits, standards, policies, rules, regulations, rulings and special orders which the board or department may adopt, issue or establish to carry out the provisions of the Groundwater Management Act of 1992 and this chapter.

Statutory Authority

§§62.1-44.15(10) and 62.1-256 of the Code of Virginia.

Historical Notes

Derived from VR680-13-07 §8.4; eff. September 22, 1993.

9VAC25-610-400. Evaluation of regulation.

Within three years after January 1, 1999, the department shall perform an analysis of this chapter and provide the board with a report on the results. The analysis shall include (i) the purpose and need for the chapter, (ii) alternatives which would achieve the stated purpose of this chapter in a less burdensome and less intrusive manner, (iii) an assessment of the effectiveness of this chapter, (iv) the results of a review of current state and federal statutory and regulatory requirements, and (v) the results of a review as to whether this chapter is clearly written and easily understandable by affected entities.

Upon review of the department's analysis, the board shall confirm the need to (i) continue this chapter without amendment, (ii) repeal this chapter, or (iii) amend this chapter. If the board's decision is to repeal or amend this chapter, the board shall authorize the department to initiate the applicable regulatory process to carry out the decision of the board.

Statutory Authority

§62.1-256 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 15, Issue 5, eff. January 1, 1999.

FORMS

Water Division Permit Application Fee.

Application for a Ground Water Withdrawal Permit (with instructions) (rev. 6/99).

Ground Water Withdrawal Permit Change of Ownership Agreement Form (eff. 6/99).

Revocation Agreement Form (eff. 6/99).

Water Well Completion Report, Form GW2, (rev. 6/99).

Permit to Withdraw Ground Water (eff. 6/99).

Public Notice Authorization Form--Authorization for Public Notice Billing to Ground Water Withdrawal Permit Applicant (eff. 6/99).

Preapplication Meeting Application for a Ground Water Withdrawal Permit (eff. 6/99).

Local and Areawide Planning Requirements (eff. 5/99).

Quarterly Groundwater Withdrawal Report.
